IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1269 OF 2004

Union of India and anr. ...Petitioners

v/s

Rampal Singh and others ...Respondents

Mr Suresh Kumar for Petitioners.

Mr S. Shaikh with Mr V.M. Parkar for Respondent Nos.1,

2, 3, 5, 8, 9 to 13, 15 to 19 and 21 to 25.

CORAM : D.K. DESHMUKH J.

DATE : 1ST AUGUST 2006.

P.C. :-

1. By this petition, the petitioners challenge the award passed by the Labour Court under section 33(C)(2) of the Industrial Disputes Act upholding the claim of 23 of the original 25 railway employees who had made an application for overtime. It appears that the applications were earlier rejected as barred by limitation. Therefore, that order was challenged by filing two writ petitions in this Court. They were decided by order dated 28th November 2001, copy of that order is at Exh.'A'. This Court held that the Labour Court was in error in rejecting the applications as barred by limitation. The matter was remanded back to the Labour Court for computation of the amount payable to the applicants. After remand, evidence was led on behalf of the workmen, they also produced vouchers prepared on the basis of entries in muster roll. On behalf of all the workers, one witness was examined by name Rampal Singh K. On behalf of the petitioners, two witnesses were examined. The Labour Court passed the order dated 21st July 2003 holding that 23 out of 25 workmen who had filed an application under section 33(C)(2) of the said Act have proved their claim and are entitled to the amounts which are mentioned in the order. The learned counsel appearing for petitioners

submits that the claim of the workmen was based on the vouchers. It was the case of the petitioners that there are no original records available and therefore, according to the petitioners, the vouchers were not proved. It was also submitted that Rampal Singh K. who was examined as a witness on behalf of the applicants had no authority to depose on behalf of the workmen. The next contention was that the claim of six persons has been awarded by the Labour Court without giving any reason in the order. I have heard learned counsel for the respondent workmen. It is clear from the judgment of this Court which is binding between the parties dated 28th November 2001 that the matter was remanded back only for the purpose of computing the amount of overtime wages to which the applicants were entitled. For that purpose, they were to produce the documents. After remand, the applicants produced vouchers in support of their claim. One Rampal Singh K. who was one of the applicants, filed affidavit of examination-in-chief wherein he has stated that he has filed vouchers supporting the claim of all the applicants and that the vouchers are prepared by him in his own handwriting and the information which is given in the vouchers is gathered by him from muster roll and booking register which was available with the Liaison Supervisor at Mumbai Central Depot. Perusal of cross-examination of this witness by the petitioners shows that in

cross-examination, he has stated that all the vouchers are in his handwriting and he has prepared the vouchers as per entries in the muster roll and booking register. There is no further cross-examination. He has not been questioned as to from where he got those documents when it was the case of the petitioners that those documents are not available. Perusal of the affidavit of examination-in-chief filed on behalf of the petitioners shows that there is no witness from the office of the Liaison Supervisor at Mumbai Central Depot examined. None of the witness on behalf of the respondents state that in the office of Liaison Supervisor at Mumbai Central Depot, booking register and muster roll are not available. In this background therefore, I do not find any error committed by the Labour Court in holding that the vouchers which have been filed are genuine. It was the case of the Railways that the record is not available and when the witness has specifically disclosed the source of information and also the place where the records are available, it was for the petitioner - Railway to lead evidence to show that no such record is available. It is clear that the claim of the applicants before the Labour Court was based on documentary evidence viz. vouchers. Those vouchers were in the handwriting of the one person and therefore it is only that person who could have proved those documents and that person has been examined to prove

those documents. In my opinion, nothing much turns on the existence of authority given by the applicants in favour of Rampal Singh K. Rampal Singh K. was a person having personal knowledge and was competent to prove the documents on which reliance was placed by the applicants and therefore, the Labour Court was justified on relying on the evidence of Rampal Singh K. as also on the documentary evidence which was proved by him. There were total 25 workmen. It was urged that the Labour Court has not given any reasons for allowing the claims of six workmen, but perusal of the petition shows that there is no such ground raised in the petition.

2. Perusal of the operative part of the order shows that there were 25 applicants, the Labour Court considered every application and has rejected the applications of two employees because there were no vouchers on record, but has granted applications of balance 23 employees whose claims are duly supported by the vouchers. In the result therefore, petition fails and is dismissed. Rule is discharged with no order as to costs.

3. During the pendency of this petition, an interim order granted by this Court was operative and therefore, the petitioners have not made payment pursuant to the impugned order to the persons who were

found to be entitled. Therefore, the petitioners are directed to make payment to the respondents who have been held to be entitled for payment within a period of 12 weeks from today.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.